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Opinion No. 62-19

REQUESTED BY: GEORGE M. IRELAND
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OPINION BY: ROBERT W. PICKRELL
The Attorney General

QUESTION: Is a veteran who has acquired title to real property with his wife through a joint tenancy deed entitled to the maximum exemption from real property taxes on that property?

CONCLUSION: No, only one-half.

In answering this question we will assume that the veteran has conclusively established his right to an exemption under Art. 9, Sec. 2 of the Constitution and has properly requested the exemption under A.R.S. §42-271 through 277. We also assume that his wife is entitled to no such exemption in her own right. The only case discussing at length this problem is Oglesby v Poage, 45 Ariz. 23, 40 P.2d 90 (1935). In that case the question was whether or not the exemption from taxation of property of honorably discharged soldiers did or did not apply to the entire community property of a married soldier and his wife. The Supreme Court held that even in a community property situation:

"The interests of the husband and wife in the community estate are each vested and capable of being separated, and since the Constitution of Arizona clearly states that it is the property of the husband which is not subject to taxation while that of the wife is, it follows that such exemption only effects the husband's interest in the community, and it is the duty of the County Assessor to assess the wife's undivided one-half interest in the property involved."

That case noted that joint tenancy was different from community property in that either one of the joint

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tenants may by deed convey his or her estate to a third party and terminate the joint tenancy. Thus it would seem from this case that inasmuch as community property of a veteran is entitled to only one-half an exemption, the less unified status of a joint tenancy is a fortiori capable of being taxed separately as to each interest therein. It has always been strongly held that exemptions are construed strictissimi juris and that unless some valid provision of the law unequivocally sustains the person claiming the exemption it will not be allowed. State v Yuma Irrigation District, 55 Ariz. 178, 99 P.2d 704 (1940). It, therefore, is apparent that the County Assessor when presented with a situation involving a joint tenancy, community property or a tenancy by the entirety where one of the owners is a veteran can only grant an exemption as far as that veteran's interest extends.

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